

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

ESTATE OF ROGER D. :
OWENSBY JR., et al., :
:
Plaintiffs, :
vs. : Case No. 01-CV-769
: (Judge S. A. Spiegel)
CITY OF CINCINNATI, :
et al., :
:
Defendants. :

Videotaped deposition of THOMAS HENRY

STREICHER JR., a witness herein, called by the
plaintiffs for cross-examination, pursuant to the
Federal Rules of Civil Procedure, taken before me,
Wendy Davies Welsh, a Registered Diplomate Reporter
and Notary Public in and for the State of Ohio, at
the offices of Helmer, Martins & Morgan Co. LPA,
1900 Fourth & Walnut Centre, 105 East Fourth Street,
Cincinnati, Ohio, on Monday, December 22, 2003, at
9:06 a.m.

1 APPEARANCES:	Page 2	1 S T I P U L A T I O N S	Page 4
2 On behalf of the Plaintiffs:		2 It is stipulated by and among counsel for the	
3 Frederick M. Morgan Jr., Esq. Paul B. Martins, Esq. Don Stiens, Esq. Helmer, Martins & Morgan Co., L.P.A. Suite 1900, Fourth & Walnut Centre 105 East Fourth Street Cincinnati, Ohio 45202 Phone: (513) 421-2400		3 respective parties that the deposition of THOMAS	
4 HENRY STREICHER JR., a witness herein, called by the		4 HENRY STREICHER JR., a witness herein, called by the	
5 plaintiffs for cross-examination, pursuant to the		5 plaintiffs for cross-examination, pursuant to the	
6 Federal Rules of Civil Procedure, may be taken at		6 Federal Rules of Civil Procedure, may be taken at	
7 this time by the notary; that said deposition may be		7 this time by the notary; that said deposition may be	
8 reduced to writing in stenotype by the notary, whose		8 reduced to writing in stenotype by the notary, whose	
9 notes may then be transcribed out of the presence of		9 notes may then be transcribed out of the presence of	
10 the witness; and that proof of the official		10 the witness; and that proof of the official	
11 character and qualifications of the notary is		11 character and qualifications of the notary is	
12 expressly waived.		12 expressly waived.	
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22		22	
23		23	
24		24	
1 APPEARANCES (Continued)	Page 3	1 I N D E X	Page 5
2 On behalf of Defendants City of Cincinnati, Darren Sellers, Jason Hodge:		2 Examination by: Page	
3		3 Mr. Morgan 6, 354	
4 Geri Hernandez Geiler, Esq. Assistant City Solicitor Department of Law Room 214, City Hall 801 Plum Street Cincinnati, Ohio 45202 Phone: (513) 352-3346		4 Mr. Weisenfelder 334, 356	
5		5 - - -	
6		6 E X H I B I T S	
7		7 Plaintiff Exhibit 117 156	
8		8 Plaintiff Exhibit 118 169	
9		9 Plaintiff Exhibit 119 176	
10		10 Plaintiff Exhibit 120 176	
11		11 Plaintiff Exhibit 121 187	
12		12 Plaintiff Exhibit 122 226	
13		13 Plaintiff Exhibit 123 252	
14		14 Plaintiff Exhibit 124 256	
15		15 Plaintiff Exhibit 125 258	
16		16 Plaintiff Exhibit 126 262	
17		17 Plaintiff Exhibit 127 264	
18		18 Plaintiff Exhibit 128 268	
19		19 Plaintiff Exhibit 129 279	
20		20 Plaintiff Exhibit 130 291	
21		21 Plaintiff Exhibit 131 309	
22		22 - - -	
23		23	
24		24	

Page 346

1 relinquished to the Cincinnati -- first Cincinnati
2 officer on the scene, is that --
3 MR. HARDIN: Objection.
4 MR. MORGAN: Object to the form.
5 A. I'm -- I'm not with you.
6 Q. Okay.
7 A. You're losing me here.
8 Q. Well, okay. Well, let's back up.
9 MR. FREUND: Isn't -- isn't that a -- a
10 legal question?
11 MR. WEISENFELDER: Well, it's a policy.
12 And whether or not they followed the policy
13 involves --
14 MR. FREUND: I'll let you ask it, but I
15 think it's a --
16 MR. WEISENFELDER: Well, it may be.
17 MR. HARDIN: It's legal --
18 MR. WEISENFELDER: Well --
19 MR. HARDIN: -- and I'll be objecting.
20 MR. MORGAN: How come you're so much nicer
21 to him than you were to me?
22 MR. FREUND: Because --
23 MS. GEILER: Don't answer that, Neil.
24 MR. FREUND: Because I want to be.

Page 348

1 effect as of November 7th, 2000?
2 A. I don't see this dated anyplace, but I
3 guess we can assume that it was.
4 Q. Well, I don't want anybody to assume
5 anything.
6 A. Okay.
7 Q. There's a date on the transmittal page to
8 you from Sergeant Jeffrey Butler dated October 30th
9 of 2000.
10 A. Okay.
11 Q. Okay. And that transmittal memo lists the
12 participating agencies within Hamilton County,
13 correct?
14 A. Correct.
15 MR. MORGAN: Object to the form.
16 Q. Okay. And Cincinnati is -- well, is
17 Cincinnati part of that agreement?
18 A. Yes.
19 Q. Okay. As is Golf Manor?
20 A. Yes.
21 Q. Okay. Well, let's go back to page 2 then.
22 A. Okay.
23 Q. All right. "Control of any arrested
24 person, evidence and the crime scene shall be

Page 347

1 MR. HARDIN: I'll -- I'll object to the
2 reference that this is a policy.
3 MR. FREUND: Yeah. I -- I just think that
4 you're asking him a -- a legal question.
5 MR. WEISENFELDER: Well, if he's --
6 MR. FREUND: And -- and not a factual
7 question.
8 MR. WEISENFELDER: That's fine. Okay.
9 MR. FREUND: So that's the basis for my --
10 MR. WEISENFELDER: All right. Well, let
11 me --
12 MR. FREUND: -- objection.
13 MR. WEISENFELDER: Let me go back and
14 make --
15 MR. FREUND: And I -- and -- and that's
16 the last time I'm going to be nice to you also.
17 MR. WEISENFELDER: Okay. That's fair
18 enough.
19 MR. FREUND: All right.
20 MR. WEISENFELDER: All right.
21 BY MR. WEISENFELDER
22 Q. Chief Streicher, what was marked as
23 Exhibit 78, the Mutual Aid Agreement For Law
24 Enforcement, that was an agreement that was in

Page 349

1 relinquished to the first available officer from the
2 jurisdiction within which the crime took place."
3 What's your understanding of that sentence?
4 A. That if an officer --
5 MR. MORGAN: Asked and answered.
6 THE WITNESS: I'm sorry.
7 MR. FREUND: Go ahead.
8 A. If an officer is on duty and has probable
9 cause to believe that a criminal offense occurred
10 outside of their own jurisdiction but in the
11 jurisdiction of one of these cooperating agencies,
12 that officer can make an arrest --
13 Q. And --
14 A. -- for that situation and do whatever's
15 necessary according -- according to the law.
16 Q. And what --
17 A. And then when a --
18 Q. Wait --
19 A. -- respondent --
20 Q. I'm --
21 A. -- if -- if -- if the -- if the -- when an
22 officer from the jurisdiction where that offense
23 occurred arrived there, that that person should
24 relinquish custody and control of that person to the

Page 350	Page 352
1 officer in the jurisdiction where it occurred.	1 Q. And why not?
2 Q. Whose own -- whose jurisdiction where the	2 A. Because I don't know that any supervisor
3 offense occurred, correct?	3 from -- or any commanding officer from Cincinnati
4 A. Right. Exactly.	4 gave them any direction.
5 Q. Okay. Let's turn to page 7.	5 Q. But it does-- it doesn't say they have to,
6 A. Okay.	6 does it?
7 Q. Paragraph VI C. Do you want to take a	7 MR. HARDIN: Object.
8 minute to read it?	8 Q. Doesn't it say they shall be?
9 A. C? Sure.	9 MR. HARDIN: Objection. Argumentative.
10 Q. Pardon me. No. I'm sorry, VI D.	10 MR. MORGAN: Join.
11 A. What is it?	11 A. "They will be under the lawful direction
12 Q. VI D on the bottom of page 7.	12 and authority." I don't know that any direction was
13 A. Oh, okay. D, okay.	13 given to them.
14 Q. Okay. Have you had an opportunity to read	14 Q. Okay. So you're not aware of any
15 that?	15 Cincinnati officer, in fact, directing them or
16 A. Yes, sir.	16 asking them to do anything as it relates to Mr.
17 Q. For the record, VI D of the -- what was	17 Owensby?
18 marked as Exhibit 78 states, "Whenever the law	18 A. I don't recall anything at all --
19 enforcement employees of one cooperating Agency are	19 Q. Okay.
20 providing police services upon request to another	20 A. -- about -- along that.
21 cooperating Agency they will be under the lawful	21 Q. Are you aware of anyone from Cincinnati --
22 direction and authority of the commanding law	22 when I say Cincinnati, I mean the Cincinnati Police
23 enforcement officer of the Agency to which they are	23 Department.
24 rendering assistance."	24 A. Okay.
Page 351	Page 353
1 Chief, would you agree with me that in	1 Q. Asking either of the Golf Manor officers
2 this instance, the Owensby matter, that when the	2 to do something that was not done?
3 Golf Manor officers responded to the Cincinnati	3 MR. MORGAN: Foundation.
4 jurisdiction they were under the control or	4 A. I don't recall that --
5 direction of the Cincinnati officers?	5 Q. Okay.
6 MR. HARDIN: Objection.	6 A. -- no, sir.
7 MR. MORGAN: Foundation, conclusion of	7 Q. You're not aware of anything?
8 law, speculation.	8 A. I -- I --
9 A. Umm --	9 Q. Correct?
10 Q. Based upon this agreement.	10 A. -- simply don't recall.
11 MR. MORGAN: Same objections.	11 Q. Okay. Are you aware of any of the
12 A. I guess I have to ask you in what matters?	12 Cincinnati officers requesting either Golf Manor
13 I mean, I don't understand what you mean by --	13 officer to summon or request the fire department or
14 Q. Well, I -- I -- I didn't write the	14 any other type of medical assistance for Mr.
15 agreement. I'm asking based upon what you know of	15 Owensby?
16 the incident involving Mr. Owensby, knowing how the	16 MR. MORGAN: Foundation.
17 Golf off-- Golf Manor officers responded to the	17 A. I don't recall that.
18 scene as well as what's contained in paragraph VI D,	18 Q. Okay. Chief Streicher, would you agree
19 whether, in your opinion, the Golf Manor -- Golf	19 that the officers who participated in subduing
20 Manor officers were under the control or direction	20 the -- or the physical arrest of Mr. Owensby or the
21 of Cincinnati?	21 Macing of Mr. Owensby or placing Mr. Owensby in the
22 MR. HARDIN: Objection.	22 back of a Golf Manor police cruiser were in a better
23 MR. MORGAN: Same objections.	23 position than the Golf Manor officers to assess Mr.
24 A. No.	24 Owensby's physical condition or need for medical

	Page 354		Page 356
1 care?		1 that -- that tries to allow some flexibility because	
2 MR. FREUND: Objection.		2 of the large number of incidents that can occur	
3 MR. HARDIN: Objection.		3 where we cross jurisdictional lines.	
4 MR. MORGAN: Foundation, speculation.		4 Q. Do me a favor, Chief. Read aloud the last	
5 A. I don't know that that's accurate.		5 two lines of paragraph D which are actually on the	
6 Q. Okay.		6 next page. That sentence.	
7 A. I -- I -- wouldn't -- certainly wouldn't		7 A. "Officers shall be subject to the code of	
8 agree that that's accurate.		8 ethics, policies, and rules and regulations of their	
9 Q. The fact of the matter is, as you sit here		9 employing Agency at all times."	
10 today, you're not certain or don't have specific		10 MR. MORGAN: I have nothing further.	
11 facts as to what either of the Golf Manor officers		11 Thank you, Chief.	
12 saw or ability to see as it related to Mr. Owensby's		12 THE WITNESS: Okay.	
13 condition; is that true?		13 MR. WEISENFELDER: Chief, I have one more.	
14 A. That's correct.		14 THE WITNESS: Okay.	
15 MR. MORGAN: Leading.		15 FURTHER CROSS-EXAMINATION	
16 Q. Okay.		16 BY MR. WEISENFELDER:	
17 MR. WEISENFELDER: I have nothing further.		17 Q. Do you know who drafted the --	
18 MR. FREUND: Are you -- are you going to		18 MR. WEISENFELDER: Well, I -- you know, I	
19 have any further questions?		19 misspoke. I have more than one question. And	
20 MR. MORGAN: I may have one. I need to		20 Neil's going to get upset, aren't you, Neil?	
21 parse this just a second. Yeah, I think one.		21 MR. FREUND: No. No. I don't -- I don't	
22 FURTHER CROSS-EXAMINATION		22 easily get upset.	
23 BY MR. MORGAN:		23 MR. WEISENFELDER: Good.	
24 Q. Chief, when -- talking about paragraph D		24 BY MR. WEISENFELDER:	
	Page 355		Page 357
1 on page 7 of the compact, when you said -- it's my		1 Q. Chief, do you know who drafted this	
2 understanding that the reason you discounted		2 document?	
3 reliance on this paragraph was because you weren't		3 MR. MORGAN: Asked and answered.	
4 aware of there having been a request from the City		4 A. No.	
5 to Golf Manor to come and provide assistance; is		5 Q. Okay.	
6 that right?		6 A. I don't know who specifically wrote that.	
7 A. Well, there was an all-- no, there's a --		7 Q. Did you have any role in drafting this --	
8 there's a --		8 this document?	
9 MR. HARDIN: There's going to be an		9 A. No.	
10 objection on misstatement, but go ahead.		10 Q. Okay. Prior to today though, you had seen	
11 A. There's a request. It's an all--		11 it and you were familiar with it?	
12 all-county broadcast goes out --		12 A. Oh, yes, sir.	
13 Q. Okay.		13 Q. Okay. And you've had an opportunity to	
14 A. -- for assistance for officers. That goes		14 read, I think, probably at least three times	
15 out. I read this as -- as if officers arrived there		15 paragraph VI D; is that right?	
16 and they have to take action, say to arrest		16 A. Yes.	
17 somebody, they could be acting with authority of		17 Q. Okay. Would you agree that the reason for	
18 our -- of our jurisdiction.		18 that paragraph is that when you have a number -- or	
19 The direction -- it -- it also provides		19 potentially a number of other jurisdictions	
20 our officers, our commanders with the ability, Golf		20 responding to another jurisdiction, that someone has	
21 Manor responds, Addyston responds, whoever, "Take a		21 to be in control? They all can't be in control?	
22 traffic post, I want you to do this, this and this,"		22 Someone has to assume control and responsibility for	
23 while they're there under the conditions.		23 the officers that are responding to -- to direct	
24 It's a very broad, very broad statement		24 whatever needs to be done, whether it be traffic,	